

FISCAL NOTE

Bill #: SB0308

Title: Revise telemarketing laws

Primary Sponsor: Taylor, M

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY 2004</u> <u>Difference</u>	<u>FY 2005</u> <u>Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. There is no fiscal impact as a result of this bill.

Department of Administration

2. SB 308 allows the Department of Administration to recoup all civil fines, costs, and fees received or recovered for enforcement action under Title 30, Chapter 14, part 1. The amount collected must be used to defray the expenses of the department related to the enforcement action; excess fines, costs, or fees must be credited to the general fund.

Commissioner of Political Practices

3. Passage of SB 308 could result in official complaints being filed with the Commissioner of Political Practices. Since the number of official complaints to be filed is unpredictable, legal costs necessary to investigate and resolve such complaints cannot be determined at this time.

TECHNICAL NOTES:

1. Subsection (2) does not specify any deadline for filing the name with the Commissioner of Political Practices. Unlike the time requirement in subsection (1), a person or organization apparently could begin telephone campaigning or contribution solicitations prior to filing with the Commissioner of Political Practices, as long as they eventually file at some time. Or, the use of the language “engaged in” could

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(continued)

mean that the filing has to occur while the solicitation or campaigning is ongoing, though there would still be no concrete deadline during the solicitation or campaigning. The lack of clarity in this subsection could lead to enforcement concerns.

2. Subsection (3) references the enforcement provisions of 13-37-128. That statute has two subsections. Subsection (1) authorizes a civil action to seek a penalty against a person who violates “the reporting provisions of *this chapter*” (chapter 37 of Title 13). Since Section 10(2) of SB 308 expresses an intention to have Section 9 codified in Title 13, chapter 35, a violation of Section 9 could not be remedied under 13-37-128(1).
3. While the Attorney General’s Office has the same enforcement authority as the Department of Administration, the bill limits recovery for the AG’s office to civil costs and fees. The amount recovered by the AG’s office must be used to defray the expenses related to enforcement action. It is unlikely that the civil costs and fees actually recovered or awarded would cover the actual costs of enforcement. SB 308 would not allow the AG’s office to recover the actual costs of enforcement